

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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DEC 23 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
GTE CORPORATION. )  
 )  
Transferor, )  
 )  
and )  
 )  
BELL ATLANTIC CORPORATION, )  
 )  
Transferee, )  
 )  
For Consent to Transfer Control. )

CC Docket No. 98-184

**OPPOSITION TO COMMENTS AND PETITIONS TO DENY**

Keep America Connected  
Alpha One  
American Council on Education  
Harlem Consumer Education Council  
National Association of College and University Business Officers  
National Association of Commissions for Women  
National Association of Development Organizations  
The National Trust for the Development of African American Men  
Northern Virginia Resource Center for the Deaf and Hard of Hearing Persons  
United Homeowners Association  
United Seniors Health Cooperative

December 23, 1998

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The undersigned public interest and consumer organizations hereby oppose the Comments and Petitions to Deny the proposed transfer of licenses in reference to the proposed merger of Bell Atlantic and GTE. We urge the Commission to undertake an expeditious review and approval of the requested license transfers.

We are brought together in our support of the proposed merger as being in the public interest and of benefit to telecommunications consumers across the nation. The unnecessary delay and placing of conditions, beyond the core concerns for consumers expressed in our comments, upon approval of the merger will not be in the public interest and will defeat the primary vision of the Telecommunications Act of 1996 to promote broadscale competition in the telecommunications marketplace.

## **I. STATEMENT OF INTERESTS**

**Keep America Connected (KAC)** is an organization comprised of groups whose demonstrated goals involve promoting a variety of telecommunications issues. The primary goal of KAC is that regardless of income, race, disability, age, ethnicity or geographical location and affordable access to the use of the modern telecommunications infrastructure and services should be available. This goal is best achieved through the rapid development of a fully competitive marketplace that ensures that consumers across the nation will have access to more services at lower prices.

**Alpha One** is the largest center for independent living in Maine. Its members consist of both executives and managers who have disabilities and those who do not. Consumers of its services have a wide range of disabilities including physical, sensory, developmental and multiple. Four offices located statewide enable thirty professional staff, many with disabilities themselves, to respond to the diverse needs of people across the state. Alpha One is also a leading advocate in shaping public policy to address and integrate the needs of people with disabilities especially in the area of telecommunications.

**American Council on Education (ACE)** is a nonprofit association comprised of 1,850 colleges, universities and other educational associations. ACE supports efforts to enhance telecommunications services or offerings available to its members.

**Harlem Consumer Education Council, Inc.,** is a consumer advocacy, consumer education and training organization based in New York City, New York. Among its activities is sponsorship of "Harlem Consumer Awareness Day," a joint conference with state and federal agencies.

### **National Association of College and University Business Officers (NACUBO)**

members are nonprofit and for-profit organizations located in the US and abroad who are all committed to excellence in higher education, finance and administration. One of NACUBO's missions is to anticipate the issues affecting higher education across the world particularly the use of telecommunications as a means of sharing information and knowledge. NACUBO supports universal access to telecommunications regardless of ethnicity, income or geographic location.

**National Association of Commissions for Women (NACW)** represents local commissions established to promote the interests of women in cultural, social, and economic fields. NACW supports policies and programs that empower women to make informed choices about all aspects of their lives. NACW has been active in the debate on telecommunications reform, supporting legislative and regulatory initiatives to encourage competition, thereby creating new options and services for women as consumers and in their businesses.

**National Association of Development Organizations (NADO)** is a public interest group founded in 1967 to promote community and economic development in America's small metropolitan and rural areas. NADO is a leading advocate for a regional approach to community and economic development. The association's primary goal is to assure all rural citizens have employment opportunities, public services, and a quality of life comparable to other Americans. NADO's members are regional development organizations whose staff provides professional assistance to local governments, businesses, and nonprofit organizations. Regional development organizations help identify local needs and priorities, and are catalysts for strategic planning in rural communities. The functions of regional organizations vary depending on the needs of

local citizens and may include: small business financing, infrastructure and housing development, job training, environmental protection, and services for the poor and seniors. Each region is governed by a policy board of elected officials, business leaders, and citizen representatives.

**The National Trust for the Development of African American Men** is a national, non-profit organization based in the Washington, D.C. area that addresses the development, needs and challenges of African-Americans; especially males, in the areas of health, leadership, training, economic development, education, and crime prevention from an African American view of the world. The Trust operates programs throughout the Bell Atlantic region with a particular emphasis on technology training and making computers and on-line services accessible in low income and underserved communities.

**Northern Virginia Resource Center for the Deaf and Hard of Hearing Persons** is the premier self-help and advocacy organization of and for deaf and or hearing impaired persons in Fairfax County, Virginia. The group supports efforts to ensure and promote universal access and new telecommunications technologies that will empower its constituents and create new opportunities in the workforce, education and society.

**United Homeowners Association (UHA)** is a national, nonprofit, membership based organization that represents the interests of homeowners in Washington, D.C. UHA has an active communications advocacy program on behalf of its members. UHA has promoted the interests of homeowners in telecommunications to Congress, before the FCC and in the courts.

**United Seniors Health Cooperative (USHC)** is a charitable 501(c)(3) organization serving older people in the National Capital Area. USHC supports efforts to ensure that

older people have access to advanced telecommunications applications to meet their health care and other needs.

## II. INTRODUCTION

The nature of the telecommunications market is in an explosive mode of change and, hopefully, progress, all to the benefit of consumers. We are now in the midst of a dramatic restructuring of the telecommunications industry to be able to compete locally, nationally and on a global scale. This move towards industry restructuring to ensure the ability to compete in the new global/national marketplace is not isolated to the telecommunications industry but can be found occurring across the board. We are now seeing mergers and acquisitions in the automotive, aerospace, energy, health care and other industries throughout this nation and the world.

As with the onset of the various other mergers and acquisitions occurring in this nation, the proposed merger of Bell Atlantic and GTE must be considered as a business and marketplace decision by the two companies who have determined that the merger is necessary to better compete to provide a variety of current and new telecommunications services to consumers throughout America and the world. It is through this decision to become a new and stronger competitor in this arena that the goals of local and long distance service competition will occur. We urge the Commission to resist micromanaging the merger process or placing such stringent conditions on the approval of the merger that the goals of true broadscale competition are diminished to the point the public interest will not be served.

Commenters believe that the comments and petitions in opposition to the merger have failed to provide convincing arguments that the merger will be anti-competitive and not in the public interest. The arguments that the proposed merger is not in the public interest are based upon suppositions and hypothetical assumptions that have not and

cannot be substantiated. The comments and petitions to deny should be dismissed and the Commission should approve the license transfers request.

### **III. SUMMARY OF INITIAL COMMENTS FILED WITH THE COMMISSION**

In the comments filed with the Commission on November 23, 1998, the commenters asked the Commission, when assessing the proposed merger, to review the following issues:

Will the merger help to ensure that universal service remains a cornerstone of federal telecommunications policy in a dynamically changing and competitive market?

Will the merger increase the companies' commitments and abilities to meet the core values of importance to the undersigned organizations including diversity, accessibility, and consumer education/protection?

Will the merger of Bell Atlantic and GTE bring consumers more choices in telecom service providers and services (particularly in local service, but also long distance, data/Internet, and wireless)?

Will the merger speed technological advances and new services to ALL consumers?<sup>1</sup>

Commenters reiterate their goals that first, Bell Atlantic and GTE demonstrate that the benefits of the merger will continue to ensure that universal service remains a cornerstone of federal communications policy. Second, the new company will blend the best practices each company has to offer in the areas of diversity, accessibility, and consumer education/protection. Third, they will provide direct, head-to-head competition for local, long distance, and wireless telephone services. Lastly, the new company will

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<sup>1</sup> Comments of Keep America Connected, et al, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, p.9.

provide the opportunity to obtain advanced telecommunications services through this nation.

We believe that Bell Atlantic and GTE can meet our goals by specifically and publicly demonstrating their commitment to the Commission to compete on a national basis to provide a wide range of telecommunications services that will benefit all Americans. As stated in our initial comments, this merger embodies the new era of fundamental change in the telecommunications marketplace and is in the public interest.

#### **IV. ARGUMENTS**

In their comments to the Commission, Consumers Union and the Consumer Federation of America (hereinafter referred to as Consumers Union) stated the “mergers would result in a market structure that is simply too concentrated to support effective competition.”<sup>2</sup> Commenters dispute this contention and agree with the November 23, 1998 comments made by the Competitive Enterprise Institute in which they stated:

Each time a merger or alliance is made public, we hear predictions that the old Bell system is being reproduced, and the public will lose its choices – and hope for more choices in telecommunication. But time and again, reports of the death of competition have been exaggerated. In fact, competition may be getting stronger.<sup>3</sup>

Commissioner Powel in his address at the Practising Law Institute and Federal Communications Bar Association’s 16<sup>th</sup> Annual Conference on Telecommunications Policy and Regulation (hereinafter referred to as PLI Conference) stated that “regulators are fundamentally followers and fall behind market trends... Regulators have a persistent

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<sup>2</sup> Comments of Consumers Union and the Consumer Federation of America, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, Appendix A, p. 9.

<sup>3</sup> Comments of Competitive Enterprise Institute, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, p.2.

ability to undersell market forces and their benefits.”<sup>4</sup> Commenters urge the Commission to carefully view the fundamentally changing nature and dynamics of the telecommunications industry. To apply yesterday’s regulatory regimes on the merger review and approval process will perpetuate the distortion currently found in competition in the marketplace, to the detriment of all telecommunications consumers.

**A. New and expanded competition: Fulfilling the goal and vision of the 1996 Act**

The fundamental goal and vision of the 1996 Act was to promote competition in the telecommunications marketplace. The commenters and petitioners in opposition to the proposed merger allege that the merger will diminish competition and be harmful to consumers. We question the basis for such allegations.

Without attempting to pass judgement on any pending or approved telecommunications merger, commenters question Consumers Union’s consistent position that all telecommunications mergers should not be approved. The same assumptions and hypothetical arguments that the mergers will be anti-competitive and harmful to consumers have been repeatedly utilized in their comments filed with the Commission.

Commenters fully believe that the dynamic growth and changes occurring in the telecommunications industry are the driving force behind the remarkable success of the American economy. The telecommunications industry is the heart of American business. As with other industries, the telecommunications industry must restructure and

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<sup>4</sup> Practising Law Institute and Federal Communications Bar Association’s 16<sup>th</sup> Annual Conference on Telecommunications Policy and Regulation, Commissioner Michael Powell, December 10, 1998.

consolidate to continue to effectively compete this will provide the fuel necessary to continue to drive the nation's economy. At the PLI Conference debate on mergers, Gene Kimmelman of Consumers Union stated that the mergers should not be approved.<sup>5</sup> We question how Consumers Union can oppose all telecommunications mergers as not being in the public interest.

Commenters agree with the comments made by Communications Workers of America in their November 23, 1998 filing with the Commission, in which they stated:

The rapid consolidation of the telecommunications/information industry is driven by the need for carriers to realize the economies of scale and scope necessary to make the huge capital and human resources investments in next-generation advanced data networks capable of providing consumers with a package of bundled voice, data, and video products and services.<sup>6</sup>

The Communications Workers of America also stated that "The emphasis on job growth and business expansion in this merger contrasts with so many other recent mergers, which focus on cutting costs and firing workers."<sup>7</sup> Industry consolidation is necessary to ensure expanded and robust competition in the telecommunications industry.

In their Public Interest Statement filed with the Commission, Bell Atlantic and GTE have stated that the merger will allow the new company, through its expanded scope and scale, to enter into head-to-head competition across all segments of the telecommunications marketplace. Consumers Union stated "it should be said that the incumbent LECs have shown little stomach for real competition."<sup>8</sup> Commenters refute

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<sup>5</sup> Practising Law Institute and Federal Communications Bar Association's 16<sup>th</sup> Annual Conference on Telecommunications Policy and Regulation, Gene Kimmelman, Co-Director, Consumers Union, December 10, 1998

<sup>6</sup> Comments of Communications Workers of America, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, p.4.

<sup>7</sup> Comments of Communications Workers of America, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, p.4.

<sup>8</sup> Comments of Consumers Union and the Consumer Federation of America, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, Appendix A, p. 17.

this contention. Bell Atlantic and GTE have publicly committed to enter into direct local service competition in at least twenty-one markets outside of their current service areas. This will be the first inroad into real facilities-based competition against other RBOCs.

The merger will enable the new company to utilize its expanded resources to enter into direct and fruitful local, long distance and wireless services competition. The new company will find it necessary to initially aim this competition for local service at the high volume customer in order to establish the return on investment and revenue streams to compete effectively. As we stated in our previous comments, we urge Bell Atlantic and GTE to quickly serve residential customers in these markets.

The Act's fundamental goal of true competition in the local telephone service marketplace will be furthered if the merger is approved. Failure to approve the merger or the imposition of conditions upon the merger, beyond its review of the core consumer issues of importance to the undersigned organizations, will only negate the benefits consumers will obtain through this commitment to compete in the local service arena. Consumers Union stated "the mergers create end-to-end networks that give the incumbents a decided advantage if they are allowed to enter the long distance or other lines of business."<sup>9</sup> Commenters are encouraged by Bell Atlantic and GTE's commitment to become a major national competitor for long distance and other services.

Commenters assert that there is no real competition in the long distance market. As stated in our previous comments, the National Economic Research Associates

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<sup>9</sup> Comments of Consumers Union and the Consumer Federation of America, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, Testimony of Gene Kimmelman before the Senate's Judiciary Committee's Subcommittee on Antitrust, Business Rights and Competition, p. 15.

(NERA), an independent research firm, recently released a study that confirmed the failure of long distance carriers to pass through savings on access charges to their customers. NERA also concluded that "AT&T's increasing rates relative to costs is also clear evidence that the residential long distance service market is inadequately competitive."<sup>10</sup>

A new primary competitor going up against the big three long distance carriers will reinvigorate this marketplace. We believe the merger is necessary to ensure additional and needed competition in the long distance marketplace. The benefits of real and robust competition for long distance services will far outweigh any of the assumed, perceived or hypothetical harms espoused by the opponents to this merger.

The merger will also allow the new company to compete on a national and international scale for wireless services. Further competition in this dynamically changing and growing market can only provide more choices and benefits to consumers.

The new company will compete on a national scale in the local, long distance and wireless markets, facing off against other RBOCs and large long distance and wireless competitors such as AT&T. Commenters contend that Consumers Union and others who oppose this merger are looking at competition through the old blinders of local telephone competition and not through the changing perspective of responding to consumer demand in the new telecommunications marketplace. The goal and vision of the Act to encourage competition will be fulfilled through the approval of this merger.

#### **B. Allow competition in the marketplace to work**

There was no magic number as to how many RBOCs should be created with the

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<sup>10</sup> National Economic Research Associates, "Flowthrough of January 1, 1998 Access Changes to Small Business Customers," Paul S. Brandon, September 17, 1998, p.1.

breakup of Ma Bell. The commenters agree with the Competitive Enterprise

Institute's comments in which they stated:

It is important to note that the proposed merger is part of a broader restructuring of the communications market...it has been increasingly clear that the artificial division of the industry into seven neat regions, plus GTE, no longer makes sense.<sup>11</sup>

Commenters assert that this merger must be approved in order to ensure expanded competition in the telecommunications marketplace. This marketplace is the midst of a revolution. Changes are occurring at a breakneck pace. Bell Atlantic and GTE recognize that they will not only be competing in local and regional markets but will be competing against major players such as AT&T/TCI/TCG, Sprint/Deutsche Telekom/France Telecom, and MCI/WorldCom. These companies are poised to compete in providing packages of services to consumers through one-stop shopping with one bill. These companies are targeting customers in the Bell Atlantic and GTE regions. In order to compete effectively against these major players, the merger must be approved.

Commenters contend that governmental control or oppressive intervention in this marketplace has proven to be ineffective and costly to the American public and the telecommunications industry and will prove even more costly in this new competitive environment.

At the December 11, 1998 PLI Conference, Congressman John Dingell, in his keynote address, stated that the Act has failed and the Commission is micromanaging telecommunications services rather than allowing the market and consumers to decide.<sup>12</sup>

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<sup>11</sup> Comments of Competitive Enterprise Institute, Proposed transfer of licenses and control, CC Docket No. 98-184, November 23, 1998, p.2.

<sup>12</sup> Practising Law Institute and Federal Communications Bar Association's 16<sup>th</sup> Annual Conference on Telecommunications Policy and Regulation, Congressman John Dingell, Keynote Address, December 11, 1998.

At the same conference, Commissioner Powell stated that the merger “public interest test is extraordinarily vague.”<sup>13</sup> He went on to state that the merger review process is not an opportunity to substitute regulatory opportunities for the merger itself.<sup>14</sup>

Commenters urge the Commission to approve the merger without the placement of conditions that would defeat the purpose of the combined company to expand competition across the full spectrum of telecommunications services. Commenters understand and appreciate the Commission’s role in examining this merger application, but the Commission should not use this process to place conditions or constraints upon the new company that will inhibit competition in this dynamically changing marketplace, and the benefits to consumers may not be realized.

## **V. CONCLUSION**

Commenters again assert that the parties opposing the transfer of licenses have failed to provide any compelling evidence that the merger of Bell Atlantic and GTE is not in the public interest. We urge the Commission not to consider assumptions or hypothetical arguments of what may or may not happen if the merger is approved. The Commission must look at the pro-competitive benefits of the merger to consumers.

Commenters urge the Commission to encourage the merged Bell Atlantic and GTE to provide the opportunity to obtain telecommunications services to all Americans. The new company must use this merger to strengthen its commitment to universal service and to adopt best practices which will ensure its continued relationships with and

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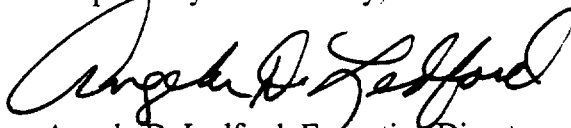
<sup>13</sup> Practising Law Institute and Federal Communications Bar Association’s 16<sup>th</sup> Annual Conference on Telecommunications Policy and Regulation, Commissioner Michael Powell, December 10, 1998.

<sup>14</sup> Practising Law Institute and Federal Communications Bar Association’s 16<sup>th</sup> Annual Conference on Telecommunications Policy and Regulation, Commissioner Michael Powell, December 10, 1998.

commitments to minorities, persons with disabilities, and the protection of consumers from fraud and marketplace abuse. We also encourage the merged company to provide advanced telecommunications service to all Americans, including those in high-cost and rural areas.

Commenters believe that the new company will be better able to meet, and hopefully exceed these obligations as a result of its expanded scope and scale and drawing upon its longstanding commitment to serve its customers. The merger is in the public interest and we urge its approval by the Commission.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Angela D. Ledford".

Angela D. Ledford, Executive Director  
Keep America Connected  
P.O. Box 27911  
Washington, DC 20005

Kim D. Wallace, Public Policy Coordinator  
Alpha One  
127 Maine Street  
South Portland, ME 04106

Sheldon E. Steinbach, Vice President &  
General Counsel  
American Council on Education  
One Dupont Circle, NW  
Washington, DC 20036

Florence Rice, President  
Harlem Consumer Education Council  
Triborough Station  
P.O. Box 1165  
New York, NY 10035

Ann Gross  
National Association of College and University  
Business Officers  
2501 M Street, NW, Suite 400  
Washington, DC 20037

Patricia T. Hendel, President  
National Association of Commissions for Women  
8630 Fenton Street, Suite 934  
Silver Spring, MD 20910-3803

National Association of Development Organizations  
444 North Capitol Street, NW, Suite 630  
Washington, DC 20001

Garry A. Mendez, Jr., Executive Director  
The National Trust for the Development of  
African American Men  
6811 Kenilworth Road  
Riverdale, MD 20737

Cheryl Heppner, Executive Director  
Northern Virginia Resource Center for the Deaf and  
Hard of Hearing Persons  
10363 Democracy Lane  
Fairfax, VA 22030

Jordan Clark, President  
United Homeowners Association  
655 15<sup>th</sup> Street, NW, Suite 460  
Washington, DC 20005

Anne Werner, President & CEO  
United Seniors Health Cooperative  
409 Third Street, SW  
Second Floor  
Washington, DC 20024